IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1442 OF 2006

Anil Vaghu Khilare ....Applicant.

V/s

State of Maharashtra .....Respondent.

Mr. U.P. Warunjikar for the applicant.
Mr. A.S. Gadkari, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 27th April, 2006

P.C.

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicant was arrested in connection with C.R. No. 29 of 2006 registered at Vishrambaug Police Station, Pune for the offence punishable under section 302 read with section 34 of the Indian Penal Code.

3. It is alleged that the applicant and others assaulted the deceased with lethal weapon and killed him. It is an admitted position that there is no direct or circumstantial evidence available against the present applicant. Similarly, there is also no recovery at the instance of the present applicant. The Sessions Court, however, rejected his application

by holding that the applicant must have committed the said offence since he was involved in a murder case which was lodged against him in the year 1999.

4. The learned APP appearing on behalf of the State has submitted that, at the moment, there is no direct or circumstantial evidence available against the present applicant save and except the statement of the co-accused who have stated that the present applicant also had participated in the commission of the said offence. He further submitted that the complainant has also expressed in his complaint his suspicion that the present applicant must have committed the said offence.

5. In my view, since admittedly there is no material available to show that the applicant had participated in the said incident, merely on suspicion he cannot be detained. The applicant, therefore, is entitled to be released on bail.

6. The applicant be released on bail in the sum of Rs 5000/- with one or two sureties in the like amount. He shall, however, not enter the jurisdiction of Pune Commissionerate. The applicant, however, may be permitted to enter the Pune City for a period of one

week for the purpose of making an application for seeking transfer from Pune Office to any other City outside Pune. The applicant, however, shall inform the Investigating Officer well in advance when he intends to enter the City of Pune for the purpose of making the said application and he shall, during his stay for one week in Pune, report to the Investigating Officer every day between 4.30 p.m. to 6.30 p.m. in the evening. The applicant shall give his new address to the Superintendent of Jail before he is released on bail and he shall report to the nearest Police Station from his new address twice in a month. The applicant shall not threaten any of the witnesses or tamper with the evidence.

7. It is further clarified that if any material is found by the Investigating Officer against the present applicant, liberty is granted to the Public Prosecutor to apply for cancellation of bail.

8. Application is accordingly disposed of.

V.M. KANADE, J.